

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
CenturyTel, Inc.)
Compliance with the Commission's)
Rules and Regulations Governing)
Advertising the Availability of Lifeline and)
Link-Up)
File No. EB-03-TC-121
NAL Acct. No. 200632170001
FRN: 0003740651

ORDER

Adopted: November 17, 2005

Released: November 22, 2005

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau and CenturyTel, Inc. ("CenturyTel"). The Consent Decree terminates an investigation initiated by the Enforcement Bureau regarding CenturyTel's compliance with section 214(e)(1)(B) of the Communications Act of 1934, as amended (the "Act"), and sections 54.405(b) and 54.411(d) of the Commission's rules, as it relates to the duty to publicize Lifeline and Link-Up programs to low-income residents on tribal lands.

2. The Enforcement Bureau and CenturyTel have negotiated the terms of a Consent Decree that would resolve this matter and terminate the investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation. We also conclude that, in the absence of material new information not previously disclosed to the Bureau, the matters raised in the investigation do not raise any substantial and material questions of fact regarding CenturyTel's qualifications to be a Commission licensee.

4. Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, and the authority delegated by sections 0.111 and 0.311 of the Commission's rules, that the attached Consent Decree IS ADOPTED.

147 U.S.C. § 214(e)(1)(B); 47 C.F.R. §§ 54.405(b), 54.411(d).

247 U.S.C. § 154(i).

347 C.F.R. §§ 0.111, 0.311.

5. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

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CONSENT DECREE

I. INTRODUCTION

1. The Enforcement Bureau (“Bureau”) of the Federal Communications Commission (the “FCC” or “Commission”) and CenturyTel, Inc. (“CenturyTel”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s investigation (the “Investigation”) regarding CenturyTel’s compliance with section 214(e)(1)(B) of the Communications Act of 1934, as amended (the “Act”), and sections 54.405(b) and 54.411(d) of the Commission’s rules,¹ as it relates to the duty to publicize Lifeline and Link-Up programs to low-income residents on tribal lands.

II. BACKGROUND

2. CenturyTel is an eligible telecommunications carrier (“ETC”), *i.e.*, a telephone company eligible to receive universal service support under section 214 of the Act.² CenturyTel serves numerous tribal lands in the 22-state area in which it operates as an incumbent Local Exchange Carrier.

3. The Bureau sent a Letter of Inquiry (“LOI”) to CenturyTel on October 7, 2003,³ stating that it was investigating whether CenturyTel was satisfying its obligations under sections 54.405(b) and 54.411(d) of the Commission’s rules to publicize the availability of Lifeline and Link-Up services to low-income residents on tribal lands “in a manner reasonably designed to reach those likely to qualify” for those services. The Bureau sent a supplemental LOI on April 6,

¹47 U.S.C. § 214(e)(1)(B); 47 C.F.R. §§ 54.405(b), 54.411(d).

²47 U.S.C. § 214.

³*See* Letter of Inquiry from Colleen Heitkamp, Chief, Telecommunications Consumers Division, Enforcement Bureau, to John F. Jones, Vice President, Federal Government Relations, CenturyTel, Inc. (October 7, 2003).

2004.⁴ The LOIs directed CenturyTel to describe actions it had taken to satisfy sections 54.405(b) and 54.411(d) of the Commission's rules and to support its responses with pertinent documentation and affidavits.

4. During the course of the Investigation, CenturyTel provided written responses to the LOIs on November 17, 2003,⁵ and April 26, 2004.⁶ After meeting with representatives of CenturyTel on October 28, 2004, the Bureau sent a follow-up letter on November 9, 2004.⁷ CenturyTel provided supplemental responses on November 19, 2004,⁸ January 14, 2005,⁹ and January 26, 2005.¹⁰ In recent meetings with the Bureau, CenturyTel stated that it provides Lifeline and Link-Up services to low-income residents on tribal lands in 12 states within its 22-state incumbent region. CenturyTel asserted that it conducted outreach to low-income residents on tribal lands within its region and provided some evidence to support its contention.¹¹

III. DEFINITIONS

5. For purposes of this Consent Decree, the following definitions shall apply:
- a. "Act" means the Communications Act of 1934, as amended.

⁴See Letter of Inquiry from Colleen Heitkamp, Chief, Telecommunications Consumers Division, Enforcement Bureau, to John F. Jones, Vice President, Federal Government Relations, CenturyTel, Inc. (April 6, 2004).

⁵See Letter from Terrance Hinkston, Compliance Specialist, CenturyTel, Inc., to Lynn Vermillera, Attorney, Telecommunications Consumers Division, Enforcement Bureau (November 17, 2003) ("November 17, 2003 Response").

⁶See Letter from Robert D. Shannon, Federal Government Relations, CenturyTel, Inc. to Cynthia Bryant, Attorney, Telecommunications Consumers Division, Enforcement Bureau (April 26, 2004) ("April 26, 2004 Response").

⁷See Letter from Mark Stone, Deputy Chief, Telecommunications Consumers Division, Enforcement Bureau, to Karen Brinkmann, Latham and Watkins, LLP, and John F. Jones, Vice President, Federal Government Relations, CenturyTel, Inc. (November 9, 2004).

⁸See Letter from Karen Brinkmann and Manu Gayatrinath, Latham & Watkins, LLP, and John F. Jones, Director, Federal Government Relations, CenturyTel, Inc., to Mark Stone and Donna Cyrus, Telecommunications Consumers Division, Enforcement Bureau (November 19, 2004) ("November 19, 2004 Response").

⁹See Letter from Karen Brinkmann and Manu Gayatrinath, Latham & Watkins, LLP, and John F. Jones, Director, Federal Government Relations, CenturyTel, Inc. to Mark Stone and Donna Cyrus, Telecommunications Consumers Division, Enforcement Bureau (January 14, 2005) ("January 14, 2005 Response").

¹⁰See Letter from Karen Brinkmann and Manu Gayatrinath, Latham & Watkins, LLP, and John F. Jones, Director, Federal Government Relations, CenturyTel, Inc. to Mark Stone and Donna Cyrus, Telecommunications Consumers Division, Enforcement Bureau (January 26, 2005) ("January 26, 2005 Response").

¹¹See the November 17, 2003 Response, April 26, 2004 Response, November 19, 2004 Response, January 14, 2005 Response, and the January 26, 2005 Response.

- b. "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
- c. "CenturyTel" means CenturyTel, Inc. and any affiliate, d/b/a, predecessor-in-interest, parent companies and any direct or indirect subsidiaries of such parent companies, or other affiliated companies or businesses and their successors and assigns.
- d. "CenturyTel Tribal Land" means that portion of the tribal land described in the Commission's report, "Telephone Subscribership on American Indian Reservations and Off-Reservation Trust Lands," released May 2003, and any subsequent such report, for which CenturyTel is an ETC.
- e. "Commission" means the Federal Communications Commission.
- f. "Effective Date" means fourteen (14) days from the date on which the Bureau releases the Adopting Order.
- g. "Investigation" means the investigation commenced by the Bureau's Letter of Inquiry, dated October 7, 2003, to CenturyTel regarding CenturyTel's possible noncompliance with section 214(e)(1)(B) of the Act and sections 54.405(b) and 54.411(d) of the Commission's rules and possible noncompliance with the Bureau's directives in the October 7, 2003 and April 6, 2004 LOIs.
- h. "Order" or "Adopting Order" means an Order of the Bureau adopting the terms and conditions of this Consent Decree without change, addition, or modification, and formally terminating the above-captioned Investigation.
- i. "Parties" means CenturyTel and the Bureau.
- j. "CenturyTel's Field Team" means Area Supervisors, Public Relations Managers and Area Operations Managers responsible for Lifeline and Link-Up outreach to their respective CenturyTel Tribal Land. Each CenturyTel Field Team member will report directly to CenturyTel's External Communications Manager regarding all Lifeline and Link-Up outreach efforts.

IV. AGREEMENT

6. CenturyTel agrees that the Commission and its delegated authority, the Bureau, have jurisdiction over it and the subject matter contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

7. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement of the Investigation. In express reliance on the covenants and representations contained herein, and to avoid the potential expenditure of additional public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of this Investigation and in accordance with the terms of this Consent Decree, CenturyTel agrees to the terms, conditions, and procedures contained herein.

8. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance by CenturyTel with the requirements of the Act or the Commission's rules or orders. The Parties agree that this Consent Decree is for settlement purposes only.

9. In consideration for the termination of the Investigation in accordance with the terms of this Consent Decree, CenturyTel agrees to make a voluntary contribution to the United States Treasury, without further protest or recourse to a trial *de novo*, in the amount of seventy-five thousand dollars (\$75,000) within thirty (30) days after the Effective Date. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, IL, 60673-7482. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259.

10. To resolve and terminate the Investigation, and to ensure compliance with the Commission's Lifeline and Link-Up outreach rules, CenturyTel agrees to implement a Lifeline and Link-Up Outreach Plan to low-income residents on CenturyTel Tribal Lands, that CenturyTel has identified in submissions to the Bureau, consisting of the components delineated below in paragraphs 10 through 13. In the event that, after the Effective Date, CenturyTel becomes an ETC on at least a portion of a tribal land appearing in the Commission's report, "Telephone Subscribership on American Indian Reservations and Off-Reservation Trust Lands," released May 2003, and any subsequent such report, it shall extend the outreach programs described herein to those portions of the newly served tribal lands and such areas shall become CenturyTel Tribal Lands for the remainder of the duration of this Consent Decree. In the event that, after the Effective Date, CenturyTel ceases to be an ETC in any portion of the CenturyTel Tribal Lands, such areas shall cease to be CenturyTel Tribal Lands as of the date on which CenturyTel's ETC designation ceased to be effective. In either case, CenturyTel will notify the Bureau of the addition to or deletion from the CenturyTel Tribal Lands, and provide a map or other description of such area and the affected American Indian Reservations or Off-Reservation Trust Lands affected.

A. Individual Tribal Outreach

- i) Individualized Tribal Plans. CenturyTel will develop and submit to the Bureau an individualized Lifeline and Link-Up outreach plan for each CenturyTel Tribal Land not later than three months after the Effective Date. These individualized outreach plans will incorporate various types of outreach efforts designed to reach that specific tribe in the most effective manner and will consist of at least some of the specific outreach efforts, in CenturyTel's judgment most likely to be effective, described in paragraphs 10(A)(iii) through 10(A)(vii) below. The outreach efforts to be incorporated into the individualized tribal plans will be determined by CenturyTel personnel within the state who have experience with the specific tribes. CenturyTel will also make good faith efforts to work in conjunction with tribal liaisons, described in paragraph 10(A)(ii) below, to develop the outreach plan for their particular tribe.

- ii) Tribal Liaisons. CenturyTel will make good faith efforts to identify and contact tribal liaisons for all CenturyTel Tribal Lands not later than thirty days after the Effective Date. Efforts to contact the various tribal liaisons may include in-person visits, direct mail, and/or telephone contact. CenturyTel's Field Team will confer with the tribal liaisons in order to determine the most effective outreach efforts to publicize Lifeline and Link-Up to their particular tribe. CenturyTel will also provide tribal liaisons with Lifeline and Link-Up posters, flyers, and applications that they can distribute to members of their tribe. CenturyTel will notify the FCC's Enforcement Bureau and the Consumer and Governmental Affairs Bureau of any CenturyTel Tribal Land that CenturyTel is unsuccessful in contacting.
- iii) Distribution of Individualized Materials. CenturyTel will conduct personal outreach to inform residents living on CenturyTel Tribal Lands about the availability of Lifeline and Link-Up. CenturyTel will work with tribal liaisons to obtain the names and/or location information for tribal residents for tribes that provide a list of residents. CenturyTel will distribute individualized materials directly to the identified residents on CenturyTel Tribal Lands once a year. These materials will clearly explain the application procedures and eligibility criteria to receive Lifeline and Link-Up services. Where tribal liaisons do not provide specific names of tribal members and how they can be reached, CenturyTel will not be responsible for making personal contact. The personal outreach will be conducted within thirty days of receiving a list from the tribal liaisons.
- iv) Public Service Announcements. CenturyTel will distribute public service announcements ("PSAs") to radio stations that reach CenturyTel Tribal Lands. The PSAs will include a CenturyTel customer service telephone number staffed by trained customer service representatives who can help interested customers apply for the Lifeline and Link-Up programs. These PSAs will be disseminated four times a year and will clearly describe both the Enhanced and the non-Enhanced Lifeline and Link-Up programs and the availability of such programs to those living on tribal lands.
- v) Newspaper Advertisements. CenturyTel will identify tribal newspapers serving CenturyTel Tribal Lands. CenturyTel will place paid advertisements in these tribal newspapers twice yearly. All advertisements will specifically mention both the Enhanced and the non-Enhanced Lifeline and Link-Up programs and provide further information on eligibility criteria and application instructions.
- vi) Press Releases. CenturyTel will send newspapers in-depth press releases that contain information about both the Enhanced and the non-Enhanced Lifeline and Link-Up services offered by CenturyTel, eligibility criteria and application instructions. These press releases will be sent to the tribal newspapers identified in 10 (A)(v) above two times a year.

- vii) Social Service Agencies. CenturyTel will make good faith efforts to identify social service agencies that provide outreach to tribal residents on CenturyTel Tribal Lands not later than two months after the Effective Date. Not later than three months after the Effective Date, CenturyTel will provide printed posters, flyers, and applications to these social service agencies for dissemination to those interested in learning more about both the Enhanced and the non-Enhanced Lifeline and Link-Up programs. Twice yearly, the social service agencies will receive either a personal visit, telephone call or an explanatory letter that describes the programs in detail, including eligibility criteria and applications instructions.

B. Service-Area Wide Outreach

In addition to the outreach efforts described in paragraph 10(A) above, CenturyTel will take each of the following steps to publicize the Lifeline and Link-Up programs to all CenturyTel Tribal Lands.

- i) Training. CenturyTel will provide training materials to all appropriate employees, as determined by the CenturyTel Field Team, in CenturyTel Tribal Lands at least once yearly. The training materials will clearly explain the importance of the programs, eligibility criteria and application instructions. These training materials will also be integrated into present Lifeline and Link-Up information in all customer service representatives' handbooks.
- ii) Bill Messages. CenturyTel will continue to publish Lifeline and Link-Up bill messages on a twice yearly basis. The bill messages will alert existing customers about the opportunity to receive help with their phone bills if they meet the eligibility requirements. The bill messages will also promote "word of mouth" advertising aimed at reaching those residents without telephone service. This "word of mouth" advertising should encourage existing customers to tell a friend, neighbor or family member without telephone service about Lifeline and Link-Up. CenturyTel will also publish similar "word of mouth" ads or messages in all of the telephone directories it distributes within CenturyTel Tribal Lands.
- iii) Website. Within 60 days of the Effective Date, CenturyTel will include an informative page on its website, www.centurytel.com, which explains the Lifeline and Link-Up programs. The page will include information on the eligibility requirements, the sign-up procedures, and a phone number by which interested customers can receive further information. Existing customers will be able to request an application be mailed to them using the MyAccount function on the site. Those who are not customers will be offered a toll-free (8YY) number through which they will be able to request an application. This page will provide a link to the appropriate state website, where state law requires. CenturyTel will also offer to work with the tribal liaisons for those tribes with websites to include a link to CenturyTel's Lifeline and Link-Up information page on the tribal websites, providing such tribal liaisons are willing to

participate. CenturyTel will include the URL address for the Lifeline and Link-Up information page in its outreach advertising.

- iv) State and Local Officials. CenturyTel will provide outreach information about Lifeline and Link-Up service to state and local officials and a contact person to whom such officials can refer individuals with questions about Lifeline and Link-Up. This effort will be undertaken twice yearly.
- v) Other. CenturyTel will make good faith efforts to promote Lifeline and Link-Up to all tribes within its service areas. When CenturyTel encounters a tribe that is particularly hard to reach or receives a request for service from a customer on CenturyTel Tribal Land to which CenturyTel cannot get access, CenturyTel will notify the FCC's Enforcement Bureau and Consumer and Governmental Affairs Bureau.

11. CenturyTel will assess its outreach efforts periodically to determine whether they are effective, as follows:

- (a) CenturyTel will conduct a survey of tribal liaisons once a year to determine whether the outreach efforts for the past year have been effective in reaching the residents of CenturyTel Tribal Lands and informing them of the Lifeline and Link-Up programs.
- (b) CenturyTel will assess whether any CenturyTel Tribal Land is within the coverage area of any newspaper, radio, or other media outlet (that CenturyTel is not already using pursuant to paragraph 10 above) that CenturyTel can use to promote Lifeline and Link-Up.
- (c) CenturyTel will track Lifeline and Link-Up applications and chart increases in Lifeline and Link-Up customers over time, by CenturyTel Tribal Land. This assessment will be done relative to October 1, 2005. This assessment will occur twice during the period covered by this Plan, the first assessment to be completed not later than twelve months after October 1, 2005 and the second not later than eighteen months from October 1, 2005.
- (d) If CenturyTel learns that certain outreach efforts are ineffective to reach a particular tribe, CenturyTel will adjust the outreach effort in response to the assessment. In such cases, CenturyTel will also provide the Bureau with a revised individualized tribal outreach plan to reflect the adjustment in the outreach effort for the particular tribe.

12. CenturyTel will implement the following record-keeping mechanisms to document each outreach effort undertaken to promote Lifeline and Link-Up.

- a) CenturyTel will maintain a record of all individuals trained.
- b) CenturyTel will maintain logs of all radio PSAs and press releases that it distributes to radio stations and newspapers for a period of two years.

CenturyTel will also request confirmation from both broadcasters and newspapers of when PSAs and press releases were aired or printed.

- c) Each of CenturyTel's Field Team members will keep a log of all of the efforts undertaken within their service areas to promote Lifeline and Link-Up to those living on CenturyTel Tribal Lands. CenturyTel will submit the logs for each state to the Bureau with its written report of compliance (described in paragraph 13 below) as supporting documentation. The logs will show the contact date, contact person, the outreach method used, the targeted tribe, and the targeted tribal land.
- d) CenturyTel will retain copies of all written material used in newspaper advertisements, press releases, posters, flyers, and other outreach efforts for two years. The field logs will contain documentation of when and where these materials were distributed. For newspaper advertisements, CenturyTel will require confirmation from the media sources of when they were published. Dated copies of the published newspaper advertisements may serve as such confirmation.
- e) CenturyTel will maintain records of all invoices for advertisements as well as any other expenditure that CenturyTel incurs for the promotion of Lifeline and Link-Up to those living on CenturyTel Tribal Lands for two years.
- f) CenturyTel will retain copies of all bill messages sent out to customers on CenturyTel Tribal Lands for two years. CenturyTel will also maintain copies of directory pages that contain printed information about the Lifeline and Link-Up programs for two years.

13. CenturyTel will submit written reports to the Bureau describing its compliance with this Consent Decree twelve and eighteen months after the Effective Date. The reports shall address in detail CenturyTel's compliance with each separate term and provision of this Consent Decree. CenturyTel must mail its reports to Colleen Heitkamp, Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W. Room 4-C244, Washington, D.C. 20554, and must include the file number listed above. CenturyTel will also send an electronic copy of its reports to Mark Stone, Deputy Chief, Telecommunications Consumers Division, at Mark.Stone@fcc.gov and Donna Cyrus, Senior Attorney Advisor, Telecommunications Consumers Division, at Donna.Cyrus@fcc.gov.

14. The Bureau agrees that, in the absence of new material evidence related to this matter, it will not use the facts developed in this Investigation through the Effective Date or the existence of this Consent Decree to initiate, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against CenturyTel, including any other enforcement action, nor will the Bureau seek on its own motion any administrative or other penalties from CenturyTel, concerning the matters that were the subject of the Investigation. The Bureau also agrees that it will not use the facts developed in the Investigation through the Effective Date or the existence of this Consent Decree to initiate, on its own motion, any proceeding, formal or informal, or take any action on its own motion against CenturyTel with respect to CenturyTel's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier. Consistent with the foregoing, nothing in

this Consent Decree limits the Commission's authority to consider and adjudicate any complaint that may be filed pursuant to section 208 of the Act, 47 U.S.C. § 208, and to take any action in response to such complaint. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. The Bureau agrees that, to the extent consistent with paragraph 21, CenturyTel's compliance with all the terms of this Consent Decree constitutes compliance with the Commission's Lifeline and Link-Up outreach rules during the period in which the Consent Decree is effective.

15. CenturyTel's decision to enter into this Consent Decree is expressly contingent upon the Bureau's issuance of an Adopting Order.

16. Provided the Bureau issues an Adopting Order, CenturyTel waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order.

17. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither CenturyTel nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and CenturyTel and the Commission will waive any statutory right to a trial *de novo* with respect to the issuance of the Adopting Order and shall consent to a judgment incorporating the terms of this Consent Decree.

18. In the event that this Consent Decree is rendered invalid by a court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

19. By this Consent Decree, CenturyTel neither waives nor alters its right to assert and seek protection from disclosure of any privileged or otherwise confidential and protected documents and information, or to seek appropriate safeguards of confidentiality for any competitively sensitive or proprietary information.

20. CenturyTel agrees that any violation of the Order or of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

21. The Parties agree that if any provision of this Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which CenturyTel does not consent), that provision will be superseded by such Commission rule or order.

22. The Parties agree that the requirements of this Consent Decree shall expire eighteen (18) months from the Effective Date.

23. This Consent Decree may be signed in counterparts.

For: CenturyTel, Inc.

For: Enforcement Bureau
Federal Communications Commission

Date

(CenturyTel Signature)

Date

Kris Anne Monteith
Chief, Enforcement Bureau